

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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|-----------------------|---|------------------|
| CATHY RAY and |) | |
| DEBBIE GONZALEZ, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | CIVIL ACTION NO. |
| v. |) | 2:18cv828-MHT |
| |) | (WO) |
| PATE'S CHAPEL BAPTIST |) | |
| CHURCH AND CEMETERY, |) | |
| |) | |
| Defendant. |) | |

OPINION AND ORDER

Plaintiffs filed this lawsuit asserting state-law claims stemming from a series of events that arose after they sought to place a marker for their deceased father in defendant's cemetery. This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that defendant's motion to dismiss plaintiffs' case be granted in part and denied in part. Also before the court are both parties' objections to the recommendation. After an independent and de novo review of the record, the court concludes that the parties'

objections should be overruled and the magistrate judge's recommendation adopted.

Accordingly, it is ORDERED as follows:

(1) The parties' objections (doc. nos. 18 and 20) are overruled.

(2) The recommendation of the United States Magistrate Judge (doc. no. 16) is adopted.

(3) The motion to dismiss (doc. no. 6) is granted as to plaintiffs' claims, if any, arising from the July 2014 conversation between Cathy Ray and Howard Smith, and is denied as to plaintiffs' claims arising from the placement of the gravesite marker in January 2015 and other events subsequent to the filing of their prior state-court lawsuit related to the July 2014 conversation. However, defendant is granted leave to re-raise the res judicata issue on a motion for summary judgment.

(4) The motion for leave to proceed in forma pauperis (doc. no. 2) is granted.

It is further ORDERED that this case is referred back to the magistrate judge for further proceedings.

DONE, this the 30th day of September, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE